

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE BOARD OF COUNTY ROAD
COMMISSIONERS OF THE COUNTY OF
OAKLAND,

Plaintiff,

vs.

1880 AVON, LLC; CITY OF ROCHESTER
HILLS; DTE ELECTRIC COMPANY F/K/A
THE DETROIT EDISON; YATES
HOLDINGS, INC. F/K/A YATES CIDER
MILL, INC.; YATES CIDER MILL, LLC;
YATES HOLDING COMPANY;
UNKNOWN TENANT(S), 51172
DEQUINDRE, LLC; THE LESLIE J. POSEY
REV. LIVING TRUST; 1930 23 MILE
ROAD, LLC; MICHAEL TITUS;
KATHRYN TITUS; 51001 DEQUINDRE
LLC; 1950 AVON, LLC; FLAGSTAR
BANK, FSB; LAKE MICHIGAN CREDIT
UNION; GREAT LAKES WATER
AUTHORITY; INTERNATIONAL
TRANSMISSION COMPANY, D/B/A
ITC*TRANSMISSION*; COUNTY OF
OAKLAND WATER RESOURCES
COMMISSIONER; COUNTY OF
OAKLAND COUNTY; AND MACOMB
COUNTY DEPARTMENT OF ROADS,

Defendants.

Civil Action No. 21-187151-CC

Honorable D. Langford Morris

RCOC Project No. 55233

Parcel No. 7

**CONSENT JUDGMENT AS TO
DEFENDANT INTERNATIONAL
TRANSMISSION COMPANY, D/B/A
ITC*TRANSMISSION*, ONLY**

Mischa M. Boardman (P61783)
Devin Sullivan (P75324)
Breanne M. Patton (P75053)
ZAUSMER, P.C.
Attorneys for The Board of County Road
Commissioners of the County of Oakland
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334
(248) 851-4111

**CONSENT JUDGMENT AS TO DEFENDANTS COUNTY OF OAKLAND AND
COUNTY OF OAKLAND WATER RESOURCES COMMISSIONER, ONLY**

At a session of said Court held in the Courthouse for the County of
Oakland, State of Michigan,

ON: 4/14/2021

PRESENT: DENISE LANGFORD MORRIS
CIRCUIT COURT JUDGE

This matter is before the Court on an Amended Complaint For Condemnation For Highway Easement and Temporary Easement (“Amended Complaint”) filed by Plaintiff The Board of County Road Commissioners of the County of Oakland (“RCOC”) for the acquisition of a Highway Easement and a Temporary Easement (collectively, the “Easements”) on property located at 1880 East Avon Road, Rochester Hills, Michigan with tax ID 15-13-477-001 (the “Property”); the Easements and the Property are more particularly described in Exhibits A and B to this Consent Judgment; and the parties having stipulated to the entry of this Consent Judgment.

IT IS ORDERED AND ADJUDGED as follows:

1. Any rights and interests currently held by Defendant International Transmission Company d/b/a *ITCTransmission* in the Property are hereby preserved and are not changed, altered, or diminished by RCOC’s taking of the Easements, and Defendant International Transmission Company d/b/a *ITCTransmission*’s property rights and interests shall continue to have their current priority in title with regard to the Easements;

2. Defendant International Transmission Company d/b/a *ITCTransmission* waives any right that it has or may have had to contest jurisdiction, the necessity, taking, or possession of RCOC’s taking of the Easements, and/or the good faith offer it received from RCOC.

3. Defendant International Transmission Company d/b/a *ITCTransmission* is not entitled to receive any just compensation and waives, releases and relinquishes its right to claim

and/or receive any just compensation in this action that it may have been entitled to claim and/or receive under the Uniform Condemnation Procedures Act, MCL 213.51, *et seq.* (“UCPA”), including any and all claims for costs, interest or attorney fees under the UCPA, or otherwise at law or equity.

4. This Consent Judgment is with prejudice as to any further assertion of claims by Defendant International Transmission Company d/b/a *ITCTransmission* against RCOC relating to the taking of the Easements, just compensation, and any and all claims by Defendant International Transmission Company d/b/a *ITCTransmission* in this action which may be allowed under the UCPA.

5. The terms of this Consent Judgment may not be amended, changed or modified except by written agreement of the parties hereto and as approved and ordered by this Court.

6. A copy of this Consent Judgment may be recorded by RCOC with the Oakland County Register of Deeds.

7. Defendant International Transmission Company d/b/a *ITCTransmission*, only, is dismissed with prejudice and without costs or fees to any party.

THIS JUDGMENT DOES NOT RESOLVE THE LAST PENDING CLAIM BUT RESOLVES ALL CLAIMS IN THIS CASE BETWEEN PLAINTIFF THE BOARD OF COUNTY ROAD COMISSIONERS OF THE COUNTY OF OAKLAND AND DEFENDANT INTERNATIONAL TRANSMISSION COMPANY D/B/A ITCTRANSMISSION.

/s/ Denise Langford Morris 4/14/2021

Circuit Court Judge DC

STIPULATION

I stipulate to entry of the above Judgment.

s/ Mischa M. Boardman
Mischa M. Boardman (P61783)
Devin R. Sullivan (P75324)
Breanne M. Patton (P75053)
ZAUSMER, P.C.
Attorneys for The Board of County Road
Commissioners of the County of Oakland
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334
(248) 851-4111

/s/ Jean Kim D'Anna (w/Consent)
Jean Kim D'Anna (P66234)
Vice President
International Transmission Company d/b/a
ITCTransmission

EXHIBIT A
HIGHWAY EASEMENT

HIGHWAY EASEMENT

KNOW ALL PERSONS that **1880 Avon, LLC** ("Grantor"), whose address is **1990 East Avon Road, Rochester Hills, MI 48307** hereby grants to the **BOARD OF COUNTY ROAD COMMISSIONERS OF THE COUNTY OF OAKLAND** ("Board"), State of Michigan, a public body corporate, located at 31001 Lahser Road, Beverly Hills, Michigan 48025, an easement for all public highway purposes ("Highway Easement") and to construct, operate, maintain, repair, and/or replace roadways, utilities, and other infrastructure improvements in, over, under, upon, and through the following described premises ("Property") situated in the **City of Rochester Hills**, County of Oakland, State of Michigan.

Commonly known as: **1880 E. Avon Road**
(Part of) Tax Parcel No.: **15-13-477-001**

**SEE PARCEL DRAWING, ATTACHED AS EXHIBIT "A," AND
LEGAL DESCRIPTION, ATTACHED AS EXHIBIT "B,"
BOTH OF WHICH ARE INCORPORATED BY REFERENCE HEREIN**

This Highway Easement includes, but is not limited to, the consent of the Grantor to the removal of any trees, shrubs, and/or vegetation, to grading, to the occupancy of the Property by public utilities, and to other matters which, in the sole discretion of the Board, may be necessary in connection with all public highway purposes and the construction, operation, maintenance, repair, and/or replacement of roadways, utilities, and other infrastructure improvements in, over, under, upon, and through the Property. Grantor waives further notice of such actions.

This Highway Easement runs with the land and shall bind the Grantor and the Grantor's heirs, representatives, successors, and assigns. This Highway Easement contains the entire understanding of the Grantor and the Board, and there are no other verbal promises between the Grantor and the Board except as shown herein.

WHEREFORE, upon approval by the Board, the undersigned Grantor hereby creates, confirms, and conveys the Highway Easement described herein for the sum of **\$8,463.00**

1880 Avon, LLC

By: _____

Its: _____

COUNTY OF OAKLAND)
) SS
STATE OF MICHIGAN)

The foregoing instrument was acknowledged before me on this ____ day of
____, 2021, by _____ as the _____
of 1880 Avon, LLC.

Notary Public

My commission expires: _____
_____ County, Michigan
Acting in the County of Oakland

Drafted by:
Devin R. Sullivan
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334

When recorded return to: SHANNON J. MILLER, CLERK'S OFFICE (OAK04)
THE BOARD OF COUNTY ROAD COMMISSIONERS OF THE COUNTY OF OAKLAND
31001 LAHSER ROAD, BEVERLY HILLS, MI 48025

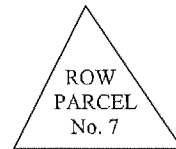
Project: Avon Road Over Clinton River and at Dequindre Road
Project No.: 55233 Parcel No.: 7

(Part of) Tax Parcel No.: 15-13-477-001

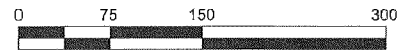
Recording Fee _____ Revenue Stamps _____

EXHIBIT A
PARCEL 15-13-477-001
1880 E. AVON ROAD

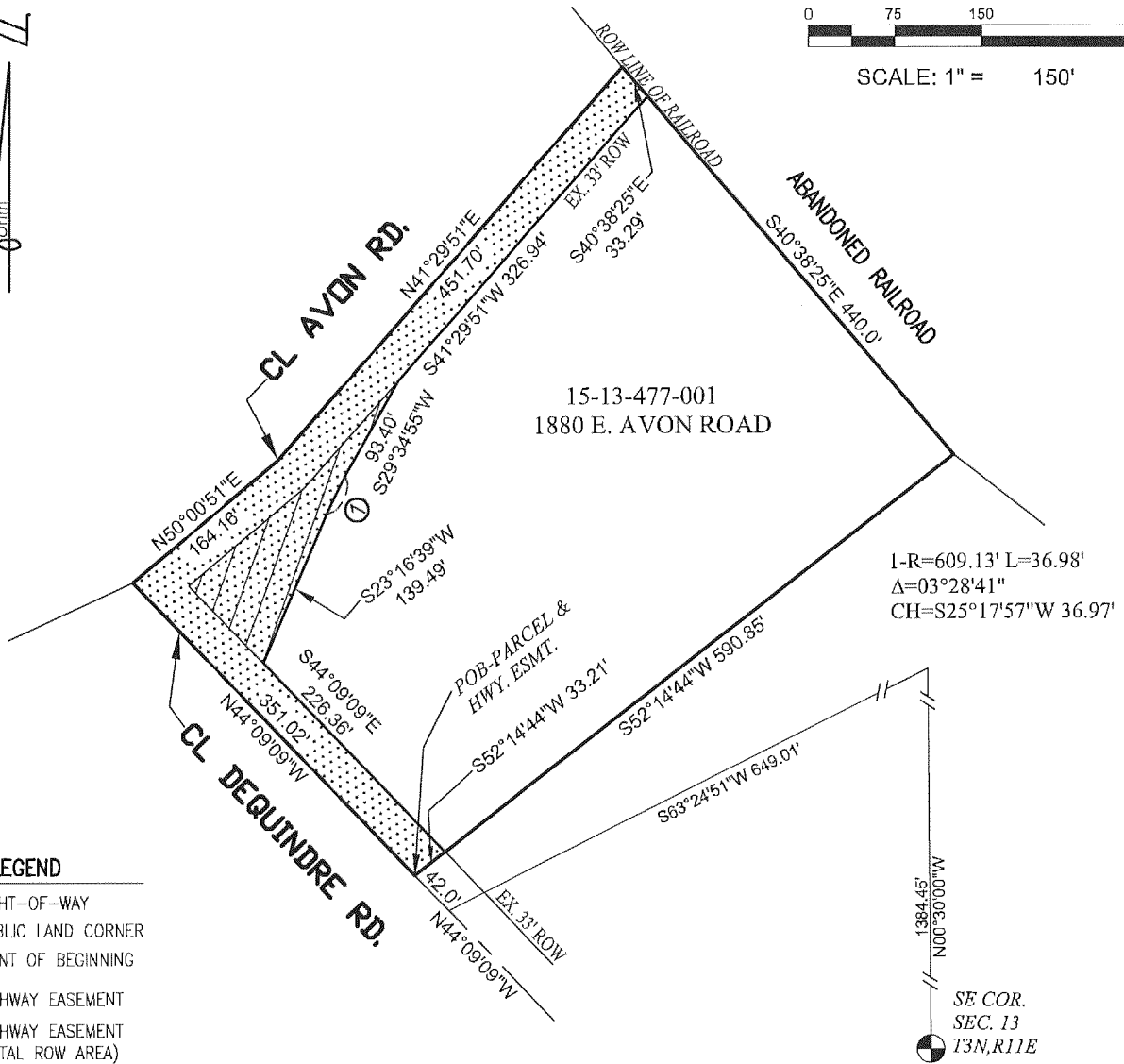
*BEARINGS BASED ON QUIT CLAIM DEED AS RECORDED
 IN LIBER 33907, PAGE 326, OAKLAND COUNTY RECORDS*



HIGHWAY EASEMENT



SCALE: 1" = 150'



LEGEND

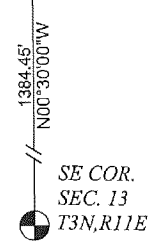
- ROW RIGHT-OF-WAY
- PUBLIC LAND CORNER
- POB POINT OF BEGINNING
- HIGHWAY EASEMENT
- HIGHWAY EASEMENT (TOTAL ROW AREA)

LAND AREAS

PARENT PARCEL	= 5.329 ACRES (232,110 SQ. FEET)
EXISTING ROW	= 0.707 ACRES (30,794 SQ. FEET)
PROPOSED HIGHWAY EASEMENT	= 0.221 ACRES (9,619 SQ. FEET)
HIGHWAY EASEMENT (TOTAL ROW)	= 0.928 ACRES (40,413 SQ. FEET)

AVON - DEQUINDRE DESIGN
 PARCEL # 15-13-477-001
 SECTION 13, T.3N., R.11E., CITY OF ROCHESTER HILLS,
 OAKLAND COUNTY, MICHIGAN

DATE
10-01-2020
 SHEET
1
 OF 1



ROAD COMMISSION FOR OAKLAND COUNTY RDC PROJECT # 55233 OHM JOB # 0170-19-0060
 34000 Plymouth Road | Livonia, MI 48150 | P (734) 522-6711 | F (734) 522-6427 | WWW.OHM-ADVISORS.COM

EXHIBIT "B"
AVON – DEQUINDRE DESIGN
Project No. 55233
Tax ID: 15-13-477-001
Parcel 7

PARENT PARCEL DESCRIPTION

A parcel of land situated in the E 1/2 of the SE 1/4 of Section 13, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as follows:
Commencing at the SE corner of said Section 13; thence N 00°30'00" W 1384.45 feet (recorded as 1377.80 feet); thence S 63°24'51" W 649.01 feet (recorded as S 64°27'00" W 670.50 feet); thence N 44°09'09" W (recorded as N 43°07'00" W) 42.0 feet to the Point of Beginning; thence N 44°09'09" W 351.02 feet (recorded N 43°07'00" W 351.0 feet); thence N 50°00'51" E (recorded as N 51°03'00" E) 164.16 feet; thence N 41°29'51" E (recorded as N 42°32'00" E) 451.70 feet; thence S 40°38'25" E (recorded as S 39°31'00"E) 440.0 feet; thence S 52°14'44" W (recorded as S 53°19'00" W) 590.85 feet to the Point of Beginning.

HIGHWAY EASEMENT DESCRIPTION

A parcel of land situated in the E 1/2 of the SE 1/4 of Section 13, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as follows:
Commencing at the SE corner of said Section 13; thence N 00°30'00" W 1384.45 feet; thence S 63°24'51" W 649.01 feet; thence N 44°09'09" W 42.0 feet to the Point of Beginning; thence continuing N 44°09'09" W 351.02 feet along the centerline of Dequindre Road; thence N 50°00'51" E 164.16 feet and N 41°29'51" E 451.70 feet along the centerline of Avon Road; thence S 40°38'25" E 33.29 feet along the Easterly line of said parent parcel; thence S 41°29'51" W 326.94 feet along the Southerly right of way line of Avon Road; thence S 29°34'55" W 93.40 feet; thence 36.98 feet along a curve to the left having a radius of 609.13 feet, delta 03°28'41", chord bears S 25°17'57" W 36.97 feet; thence S 23°16'39" W 139.49 feet; thence S 44°09'09" E 226.36 feet along the Easterly right of way line of Dequindre Road; thence S 52°14'44" W 33.21 feet along the Southerly line of said parent parcel to the Point of Beginning.
Containing 40,413 square feet, more or less.

Part of Tax ID No. 15-13-477-001
1880 E. Avon Road

Dated: October 1, 2020
SH

EXHIBIT B

TEMPORARY EASEMENT

TEMPORARY EASEMENT

KNOW ALL PERSONS that **1880 Avon, LLC** ("Grantor"), whose address is **1990 East Avon Road, Rochester Hills, MI 48307** hereby grants to the **BOARD OF COUNTY ROAD COMMISSIONERS OF THE COUNTY OF OAKLAND** ("Board"), State of Michigan, a public body corporate, located at 31001 Lahser Road, Beverly Hills, Michigan 48025, an easement for a temporary period of time ("Temporary Easement") in the construction of **Avon Road Over Clinton River and at Dequindre Road** ("Project"), being Project Number **55233**, at the following described premises ("Property") situated in the **City of Rochester Hills**, County of Oakland, State of Michigan.

Commonly known as: **1880 E. Avon Road**
(Part of) Tax Parcel No.: **15-13-477-001**

**SEE PARCEL DRAWING, ATTACHED AS EXHIBIT "A,"
WHICH IS INCORPORATED BY REFERENCE HEREIN**

This Temporary Easement is conveyed for the sum of **\$1,612.00** and shall expire at the completion of the Project. The purpose of this Temporary Easement is to grant to the Board the right to move workers, equipment, and materials on, over, and through the Property and to store equipment, material, and excavated matter on the Property. This Temporary Easement includes, but is not limited to, the consent of the Grantor to the removal of any trees, shrubs, and/or vegetation, to grading, to the temporary occupancy of the Property by public utilities, and to other matters which, in the sole discretion of the Board, may be necessary in connection with the Project. Grantor waives further notice of such actions.

The permission stated in this Temporary Easement shall begin on the date the Project begins and shall end on the date the Project is completed. The work described above shall be constructed and/or restored, as may be applicable in the sole discretion of the Board, in a workmanlike manner and in accordance with applicable state and county standards. Upon completion of the work described above, the Board and its agents shall have no further or ongoing responsibilities in relation to the work described.

This temporary easement runs with the land until the completion of the project. This Temporary Easement contains the entire understanding of the Grantor and the Board, and there are no other verbal promises between the Grantor and the Board except as shown herein.

WHEREFORE, upon approval by the Board, the undersigned Grantor hereby creates, confirms, and conveys the Temporary Easement described herein.

1880 Avon, LLC

By: _____

Its: _____

COUNTY OF OAKLAND)
) SS
STATE OF MICHIGAN)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2021, by _____ as the _____ of **1880 Avon, LLC**.

Notary Public

My commission expires: _____
_____ County, Michigan
Acting in the County of Oakland

Drafted by:
Devin R. Sullivan
32255 Northwestern Highway, Suite 225
Farmington Hills, MI 48334

When recorded return to: **SHANNON J. MILLER, CLERK'S OFFICE (OAK04)**
THE BOARD OF COUNTY ROAD COMMISSIONERS OF THE COUNTY OF OAKLAND
31001 LAHSER ROAD, BEVERLY HILLS, MI 48025

Project: **Avon Road Over Clinton River and at Dequindre Road**

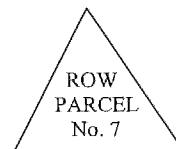
Project No.: **55233** Parcel No.: **7**

(Part of) Tax Parcel No.: **15-13-477-001**

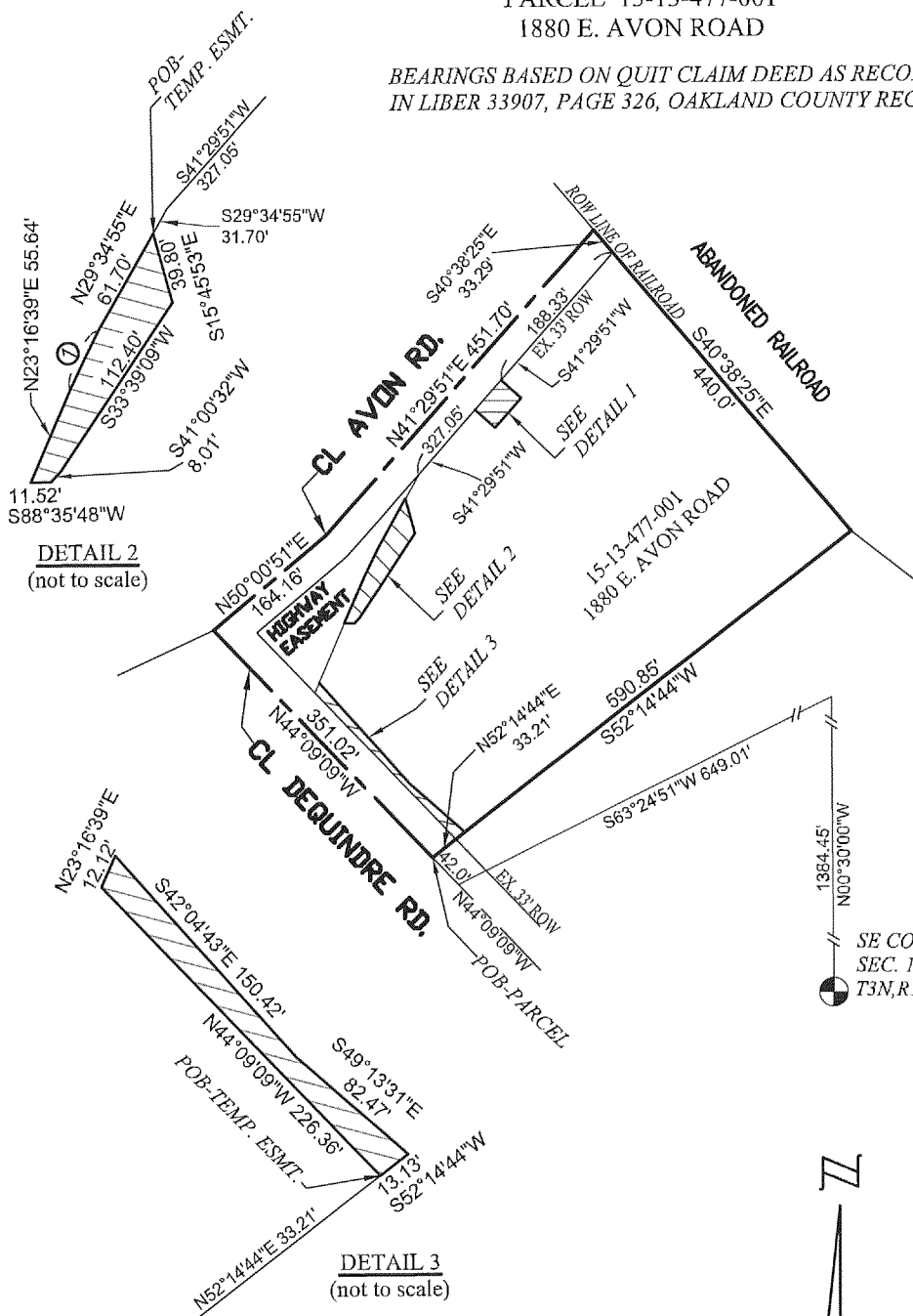
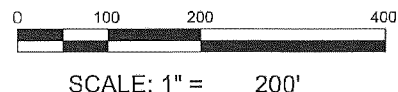
Recording Fee _____ Revenue Stamps _____

EXHIBIT A
PARCEL 15-13-477-001
1880 E. AVON ROAD

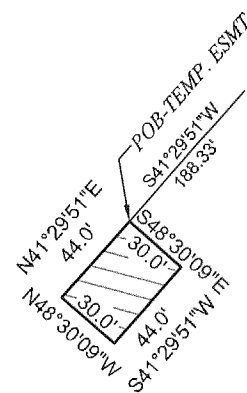
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 IN LIBER 33907, PAGE 326, OAKLAND COUNTY RECORDS



TEMPORARY EASEMENT

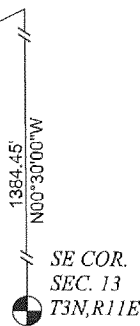


DETAIL 2
(not to scale)



DETAIL 1
(not to scale)

DETAIL 3
(not to scale)



1-R=609.13' L=36.98'
 $\Delta=03^{\circ}28'41''$
 CH=N25°17'57"E 36.97'

LEGEND

- ROW RIGHT-OF-WAY
- PUBLIC LAND CORNER
- POB POINT OF BEGINNING
- TEMPORARY EASEMENT

LAND AREAS

PARENT PARCEL = 5.329 ACRES (232,110 SQ. FEET)
 TEMPORARY EASEMENT = 0.145 ACRES (6,322 SQ. FEET)

AVON - DEQUINDRE DESIGN
 PARCEL # 15-13-477-001
 SECTION 13, T.3N., R.11E., CITY OF ROCHESTER HILLS,
 OAKLAND COUNTY, MICHIGAN

DATE
 10-01-2020
 SHEET
1
 OF 1



CLIENT: ROAD COMMISSION FOR OAKLAND COUNTY RPOC PROJECT # 55233 OHM JOB # 0170-19-0060
 34000 Plymouth Road | Livonia, MI 48150 | P (734) 522-6711 | F (734) 522-6427 | WWW.OHM-ADVISORS.COM

EXHIBIT "B"
AVON – DEQUINDRE DESIGN
Project No. 55233
Tax ID: 15-13-477-001
Parcel 7

PARENT PARCEL DESCRIPTION

A parcel of land situated in the E 1/2 of the SE 1/4 of Section 13, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as follows:
Commencing at the SE corner of said Section 13; thence N 00°30'00" W 1384.45 feet (recorded as 1377.80 feet); thence S 63°24'51" W 649.01 feet (recorded as S 64°27'00" W 670.50 feet); thence N 44°09'09" W (recorded as N 43°07'00" W) 42.0 feet to the Point of Beginning; thence N 44°09'09" W 351.02 feet (recorded as N 43°07'00" W 351.0 feet); thence N 50°00'51" E (recorded as N 51°03'00" E) 164.16 feet; thence N 41°29'51" E (recorded as N 42°32'00" E) 451.70 feet; thence S 40°38'25" E (recorded as S 39°31'00"E) 440.0 feet; thence S 52°14'44" W (recorded as S 53°19'00" W) 590.85 feet to the Point of Beginning.

TEMPORARY EASEMENT DESCRIPTION

Parcels of land situated in the E 1/2 of the SE 1/4 of Section 13, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as follows:

Commencing at the SE corner of said Section 13; thence N 00°30'00" W 1384.45 feet; thence S 63°24'51" W 649.01 feet; thence N 44°09'09" W 42.0 feet to a point; thence continuing N 44°09'09" W 351.02 feet; thence N 50°00'51" E 164.16 feet; thence N 41°29'51" E 451.70 feet; thence S 40°38'25" E 33.29 feet; thence S 41°29'51" W 188.33 feet to the Point of Beginning; thence S 48°30'09" E 30.0 feet; thence S 41°29'51" W 44.0 feet; thence N 48°30'09" W 30.0 feet; thence N 41°29'51" E 44.0 feet to the Point of Beginning,

ALSO,

Commencing at the SE corner of said Section 13; thence N 00°30'00" W 1384.45 feet; thence S 63°24'51" W 649.01 feet; thence N 44°09'09" W 42.0 feet to a point; thence continuing N 44°09'09" W 351.02 feet; thence N 50°00'51" E 164.16 feet; thence N 41°29'51" E 451.70 feet; thence S 40°38'25" E 33.29 feet; thence S 41°29'51" W 327.05 feet; thence S 29°34'55" W 31.70 feet to the Point of Beginning; thence S 15°45'53" E 39.80 feet; thence S 33°39'09" W 112.40 feet; thence S 41°00'32" W 8.01 feet; thence S 88°35'48" W 11.52 feet; thence N 23°16'39" E 55.64 feet; thence 36.98 feet along a curve to the right having a radius of 609.13

feet, delta $03^{\circ}28'41''$, chord bears $N 25^{\circ}17'57'' E 36.97$ feet; thence $N 29^{\circ}34'55'' E 61.70$ feet to the Point of Beginning,

ALSO,

Commencing at the SE corner of said Section 13; thence $N 00^{\circ}30'00'' W 1384.45$ feet; thence $S 63^{\circ}24'51'' W 649.01$ feet; thence $N 44^{\circ}09'09'' W 42.0$ feet; thence $N 52^{\circ}14'44'' E 33.21$ to the Point of Beginning; thence $N 44^{\circ}09'09'' W 226.36$ feet; thence $N 23^{\circ}16'39'' E 12.12$ feet; thence $S 42^{\circ}04'43'' E 150.42$ feet; thence $S 49^{\circ}13'31'' E 82.47$ feet; thence $S 52^{\circ}14'44'' W 13.13$ feet to the Point of Beginning.

All containing 6,322 square feet, more or less.

Part of Tax ID No. 15-13-477-001
1880 E. Avon Road

Dated: October 1, 2020
SH